

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA)	Civil Action No. 1:18-CV-0131 (BKS/DJS)
Plaintiff)	
v.)	
)	
\$51,805.00 in U.S. Currency)	
)	
Defendant.)	

VERIFIED COMPLAINT OF FORFEITURE *IN REM*

Plaintiff, United States of America, by its attorneys, Grant C. Jaquith, United States Attorney for the Northern District of New York, and Tamara B. Thomson, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

NATURE OF ACTION

1) This is an action to forfeit and condemn to the use and benefit of the United States of America the following currency: \$51,805.00 in U.S. Currency.

THE DEFENDANT *IN REM*

2) The defendant currency \$51,805.00 ("defendant currency") was seized from Kevin Lahm and Ryan Lahm on August 24, 2017, at 51 Whirlaway Blvd., Wilton, New York.

3) The defendant currency is presently in the custody of the United States Marshal Service in Syracuse, New York.

JURISDICTION AND VENUE

4) Plaintiff brings this action in rem in its own right to forfeit and condemn the defendant currency. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345 and over an action for forfeiture under 28 U.S.C. § 1355(a).

- 5) This Court has in rem jurisdiction over the defendant currency under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant in rem pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).
- 6) Venue is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395, because the acts or omissions giving rise to the forfeiture occurred in this district.

BASIS FOR FORFEITURE

- 7) The defendant currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6). 21 U.S.C. § 881(a)(6) provides for the forfeiture of:

All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.

Id.

FACTS

- 8) The facts alleged in this complaint are based upon information and belief, the sources of which are reports from the Drug Enforcement Administration (“DEA”), and other written and oral information officially received by the Office of the United States Attorney for the Northern District of New York.
- 9) In the summer of 2017, the Saratoga County Sheriff’s Office (“SCSO”) commenced an investigation into marijuana sales at 51 Whirlaway Blvd., Wilton, New York, in Saratoga County.
- 10) In or around July, 2017, The registered confidential informant (“CI”), working with the SCSO, communicated with Kevin Lahm, via text messages. In the text messages, Kevin Lahm

told the CI that the marijuana was located on the front porch of 51 Whirlaway Blvd, Wilton, New York.

11) In or about July, 2017, Members of SCSO Narcotics Unit, along with members of the Saratoga Springs Investigation Unit met with the CI at a predetermined location in the Town of Wilton for the purposes of conducting a controlled purchase of marijuana from Kevin Lahm. Prior to the purchase the CI's person and vehicle were searched with negative results. The CI was equipped with recording devices to monitor and record the transaction; surveillance units were in place. The CI was provided with \$100 in pre-recorded money.

12) The CI was followed to 51 Whirlaway Blvd., Wilton, New York. The CI was observed *via* video surveillance and photographs retrieving a small bag of green leafy substance, the mailbox at 51 Whirlway Blvd. Wilton, New York.

13) The CI was followed back to a predetermined location in the Town of Wilton, where the marijuana was immediately turned over to SCSO and the recording devices were turned off. A field test was performed on the green leafy substance and it tested positive for marijuana. In total, it weighed 15 grams.

14) On or about July, 2017, Members of SCSO Narcotics Unit, along with members of the Saratoga Springs Investigation Unit met with the CI at a predetermined location in the Town of Wilton for the purposes of conducting a controlled purchase of marijuana from Kevin Lahm. Prior to the purchase the CI's person and vehicle were searched with negative results. The CI was equipped with recording devices to monitor and record the transaction and surveillance units were in place. The CI was provided with \$100 in pre-recorded money.

15) The CI was followed to 51 Whirlaway Blvd., Wilton, New York. The CI was observed *via* video surveillance and photographs walking onto the porch of the residence, retrieving a small bag of green leafy substance from a black bag on top of a milk crate and returning to his vehicle.

16) The CI was followed back to a predetermined location in the Town of Wilton, where the marijuana was immediately turned over and the recording devices were turned off. The green leafy substance field-tested positive as marijuana and weighed 19 grams.

17) On or about August 16, 2017, SCSO obtained a search warrant for 51 Whirlaway Blvd., Wilton, New York by the Honorable David R. Towne, Town of Wilton Court Judge.

18) On August 24, 2017, the SCSO Narcotics Unit, executed the search warrant at 51 Whirlaway Boulevard, Wilton, New York. Kevin Lahm was located in an upstairs master bathroom flushing marijuana down the toilet. Kevin Lahm stated to officers on the scene that he was flushing the marijuana in response to the police entering his residence and executing the search warrant. Multiple plastic bags with marijuana and marijuana residue were located near where Kevin Lahm was flushing marijuana.

19) Located in Kevin Lahm's bedroom were the following:

- a) Containers of concentrated marijuana;
- b) Approximately one ounce of marijuana in a glass jar under the bed;
- c) A shoebox containing drug paraphernalia and containers with concentrated marijuana; and
- d) A shoebox with a plastic bag with approximately 1/8 ounce of marijuana.

20) The following items were located in the bedroom of Ryan Lahm (Kevin Lahm's brother):

- a) Located on the dresser was concentrated marijuana and a digital scale;

b) In the closet were plastic bags and a glass jar containing approximately ½ ounce of marijuana. On one plastic bag was written in black marker “\$37,000”. A second plastic bag contained loose change and written on the bag in black marker was “\$25,000”;

c) Inside the top drawer of a blue night stand were two plastic bags with approximately 1/8 ounce of marijuana in each; and

d) A Sentry safe.

21) Ryan Lahm opened the safe with a key he had. Inside the safe was the defendant \$51,805.00 in United States Currency, loose marijuana and a plastic corner from a tie off.

22) The Sentry safe was transported to the Milton Saratoga County Sheriff’s station. At the station the safe was closed and placed in a hallway along with some other cabinets. SCSO K-9 “Lee” a narcotics detection dog searched the station hallway. K-9 Lee positively alerted to the safe.

23) On the patio, SCSO found a three-foot tall marijuana plant. Ryan Lahm admitted ownership of the plant.

24) The total amount of concentrated marijuana recovered from the Lahm residence was approximately 8 grams.

25) On August 24, 2017, Kevin Lahm and Ryan Lahm were arrested and charged with Criminal Possession of a Controlled Substance-7th Degree and Unlawful Possession of Marijuana in Wilton Town Court.

26) On November 27, 2017, Kevin Lahm was arrested charged with Criminal sale of marijuana-4th degree in Wilton Town Court.

POTENTIAL CLAIMANTS

27) On or about November 2, 2017, the Drug Enforcement Administration received an Administrative Claim from Kevin A. Luibrand, Esq. on behalf of Ryan Lahm, for the defendant currency.

28) Upon information and belief, the following person/s who may claim an interest in the defendant vehicle are not in the military service, are not infants and are not incompetent persons

WHEREFORE, the United States of America prays that process of issue in due form of law, according to the course of this Court in actions in rem, against the defendant currency and that a warrant issue for the arrest of the defendant as more particularly described herein; that all persons having any interest therein be cited to appear herein and answer the complaint; that a judgment be entered declaring the defendant condemned and forfeited to the United States of America for disposition in accordance with law; that the costs of this suit be paid to and recovered by the United States of America; and that the United States be granted such other and further relief as this Court may deem just and proper.

Dated: January 31, 2018

GRANT C. JAQUITH
United States Attorney

By:

/s

Tamara B. Thomson
Assistant United States Attorney
Bar Roll No. 515310

VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF [ALBANY])

Herbert D. Hall, being duly sworn, deposes and states:

I am a Task Force Officer with the Drug Enforcement Administration. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

Dated this 31st day of January, 2018.



Herbert D. Hall, Task Force Officer
Drug Enforcement Administration

Sworn to and subscribed before me this 31st day of January, 2018.


Notary Public

JESSICA VELLANO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01VE6053483
Qualified in Rensselaer County
My Commission Expires January 08, 2019

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Tamara Thomson, Assistant U.S. Attorney (315) 448-0672
United States Attorney's Office, 100 South Clinton Street
Syracuse, New York 13261

DEFENDANTS

\$51805.00 in U.S. Currency

County of Residence of First Listed Defendant Saratoga
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)
Kevin Luibrand, Esq. (510)783-1100
950 New Loudon Road, Suite 270, Latham, New York, 12110

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 USC 881

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/31/2018

s/Tamara B. Thomson

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT Waived APPLYING IFP _____ JUDGE BKS MAG. JUDGE DJS